

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SWISSWATCHEXPO, INC.,

Plaintiff, Counterclaim Defendant

v.

BUYER'S BEST BET, INC. d/b/a
EBESTMEDIA,

Defendant, Counterclaim Plaintiff

and

LENNY ESTRIN

Defendant

v.

EUGENE TUTUNIKOV

Counterclaim Defendant.

DEMAND FOR JURY TRIAL

Case No.: 1:20-cv-03930-ELR

JOINT MOTION TO AMEND SCHEDULING ORDER

The parties hereby jointly move the Court for an order amending the Scheduling Order entered in this case on January 6, 2022 [Doc. 92], to allow the parties to amend certain dates in the Expert Discovery phase. In support of this motion, the parties jointly show the Court the following:

1. The Court entered the Scheduling Order in this case on January 6, 2022 [Doc. 92], which provided that all expert discovery, including initial reports, rebuttal reports, and depositions, would be completed 84 days after the parties attended mediation and did not reach a settlement. There are additional ongoing talks at this time.
2. The parties attended mediation on January 27, 2022, and did not conclude with settlement, which meant that, under the Scheduling Order [Doc. 92, p. 2], the deadline for completing all expert discovery expired on April 21, 2022, and the deadline for initial expert reports is due on February 24, 2022.
3. Given recent changes in expert witnesses and counsels' schedules, the parties agreed to amend the current deadlines for expert discovery.
4. The parties propose the following schedule for this case going forward, which the parties believe will most efficiently allow them to schedule, prepare for, and engage in the continuing settlement discussions, while at the same time preparing a Motion for Summary Judgment on the key issues:

<i>Current Due Date</i>	<i>Proposed Due Date</i>	<i>Event</i>
February 10, 2022	February 28, 2022	Joint Statement relating to pending discovery disputes
February 10, 2022	February 28, 2022	Motion(s) Relating to Third-Party Discovery
February 24, 2022	March 10, 2022	Expert Reports for all issues where party bears the initial burden of proof
March 24, 2022	April 14, 2022	Expert Reports Rebutting Reports of March 10
March 24, 2022	April 14, 2022	Expert Reports for all issues where responding party bears the burden of proof
None	May 5, 2022	Expert Reports Rebutting Reports of April 14 relating to issues on which responding party had burden of proof
None	May 5, 2022	Surrebuttal Reports relating to Rebuttal Reports of April 14
April 21, 2022	June 9, 2022	Depositions of expert witnesses concluded
May 19, 2022	July 14, 2022	Due date for Summary Judgment Motions – Note: SWE has notified eBM of its current plans to potentially file an early Motion for Summary Judgment relating to Licensing and to Attorneys’ Fees and eBM has agreed not to seek an extension to respond to the motion (or to delay consideration by the

		Court for any reason, including the taking of any expert depositions).
5 weeks after ruling on any Summary Judgment Motions	5 weeks after ruling on any Summary Judgment Motions	Consolidated Pre-Trial Order and <i>Daubert</i> motions to exclude expert testimony due (LR16.4, 26.2(C)).

5. The proposed schedule does not change the date for past deadlines, including the conclusion of fact discovery, the designation of experts (except as agreed-upon by counsel – including a licensing expert for eBM and a replacement technical expert for SWE), and other deadlines, including those in the prior Scheduling Order.
6. The parties believe this approach accommodates the parties' schedules, while continuing the possibilities of resolving this matter, and that good cause is therefore shown for this proposed amended schedule.

For the foregoing reasons, and for good cause shown, the parties respectfully request that this motion be granted, and that the proposed amended schedule be entered by the Court. A proposed Joint Amended Scheduling Order is filed simultaneously with this motion.

Respectfully submitted, this 8th day of February 2022.

/s/Melissa F. Castro

Tayah Woodard, Esq.
Georgia Bar No. 312548
tayah@vividip.com
Marcy L. Sperry, Esq.
Georgia Bar No. 455561
marcy@vividip.com
Alex J. Aron, Esq.
Georgia Bar No. 162408
alex@vividip.com
Melissa F. Castro, Esq.
Georgia Bar No. 384781
melissa@vividip.com
SPERRY IP LAW D/B/A VIVID IP
3017 Bolling Way, NE
Atlanta, Georgia 30305
(404) 474-1600

Kirk W. Watkins
Georgia Bar No. 740550
Kwatkins@dzkl.com
KIRK W. WATKINS P.C.
950 W. Peachtree St., NW
Suite 1804
Atlanta, GA 30309
(404) 790-3244

Attorneys for Plaintiff and
Counterclaim Defendant

/s/Cortney S. Alexander

Daniel A. Kent, Esq.
Georgia Bar No. 415110
dankent@kentrisley.com
Ph: (404) 585-4214
Fx: (404) 892-2412
Samuel J. Najim
Georgia Bar No. 534209
samnajim@kentrisley.com
Ph: (404) 855-3866
Cortney S. Alexander
Georgia Bar No. 142690
cortneyalexander@kentrisley.com
Ph: (404) 855-3867
KENT & RISLEY LLC
5755 N Point Pkwy Ste 57
Alpharetta, GA 30022

Attorneys for Defendants and
Counterclaim Plaintiff

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rules 5.1B and 7.1D, this certifies that the foregoing brief has been prepared with Times New Roman 14 point font.

This 8th day of February 2022.

/s/Melissa F. Castro
Melissa F. Castro